Secret Reasons OF STATE

In Reference

To the Affairs of these Nations,

At the Interruption of this present

PARLIAMENT:

Anno 1653. Discovered.

ALSO,

The Power of PARLIAMENTS,

touching Imprisonment, Debated,

With other Matters worthy of

Observation, in *JO: STREATER's* Case:

This being a *Narrative* of His two

Years Troubles at the beginning of the late *Monarchie*, erected

by General *CROMWEL*.

LONDON:

Printed MDCLIX.

A *Narrative* of the Case of *John Streater*, sometime Quarter-master-General of the Foot-forces of this *Common-wealth* in *Ireland*.

THe said *J.S.* having for three years, from 1650, to 1653, served the *Commonwealth* in the aforesaid Capacity, and also as Engineer did considerable Service at the taking in of Towns, Forts, and Castles, as well as fortifying for defence; The War being ended, he obtained Leave of his Excellency the then Lord Deputy *Fleetwood* to come into *England*, where he arrived about the beginning of *April*, 1653: On the 20th following, the Lord General *Cromwell* did interrupt this present Parliament in the discharge of their Duty in their Supream Trust: The which Action of his did much astonish and amaze *J.S.* so that he concluded from the action it self, it being of so high a nature, together with many other circumstances he had observed, That the General intended nothing lesse then making himself absolute Lord of his Country, contrary to his Promises, Duty, and Trust. In the morning before he went to the House to act that Tragedy, he made a *Speech* at the *Cock-Pit* to all the Officers, in substance thus, *That the hand of God had Eminently gone along with the Army in Various and Improbable Successes; that now they had no visible Enemies in Arms, Therefore it did behove them to persevere in the Work of Reformation; that Reformation could not be expected from the present Parliament: and that if they should put*

the

the People to Elect a New Parliament, it would but tempt God. Therefore his Opinion was, That God did intend to save and deliver this Nation by Few; and that Five or Six men, or few more, setting themselves to the Work, might do more in one day, then the Parliament had or would do in one hundred days for ought he could perceive: For (saith he) *the burdens are continued still on the People, Injustice aboundeth, the Law is not Regulated; they intend nothing but to seek themselves, and to perpetuate themselves to the great hurt and danger of the Nation: therefore he thought that the Nation might be better settled by a Certain Number of unbiassed men, who should give more Content to the Nation and the People of God, then the present Parliament.* After he had ended his Speech, he went immediately to the House, and Interrupted their Sitting: He Returns back, acquainted the Officers what he had done; That he had turned out the Members out of the House: and withall told them, *Now they must go hand in hand with him, and justifie what was done to the utmost hazard of all.* He also told them, *That when he went into the House, he intended not to do it; but the Spirit was so upon him, that he was over-ruled by it: and he consulted not with Flesh and blood at all, nor did premeditate the doing thereof; he seeing the Parliament designing to spin an Everlasting Thred.*

Upon the Consideration of all which, together with the Credible Information that the said *J. S.* received, that the Parliament was at that time in Consultation about the putting a period to their sitting; and also providing for a Succession of Parliaments, with such qualifications as might be the best means to preserve the Interest of the Nation, by Governing it as a Commonwealth or Free-State; he did thereupon conclude, that Gen. *Cromwell* saw he should be thereby prevented to attempt the Supremacy, and also be reduced to a private capacity, unto the which he could not with safety Re-

turn: for it were not to be Imagined, that they would Dissolve, and leave the sole Command of the Arms of the *Common-wealth* in his hands; a Trust too great for any Mortal: This *J. S.* did apprehend was the principall Reason why he interrupted their Sitting; if this was not the Reason: But on the contrary he did do it, with an Intention to redeem the Nation out of their hands, they Intending to make their Government perpetual: Can any man conceive, that he could with safety suffer any to be above him? or that he would not be necessitated to preserve himself by keeping uppermost; when he judged the People not fit to be Trusted with their own Liberty? Who should he Trust then? Did not he Intend, what at last did notoriously appear in his making himself a Monarch, Exercising a more absolute power then any Kings that went before; nay more then the late King, whom he, amongst divers, Condemned to be beheaded for a Tyrant.

The which *J. S.* did foresee would come to passe; forasmuch as he assumed Absolute power to dis-invest the People of their Liberties. Upon the Consideration of All which, on the same day, the General being present, *J. S.* published and dispersed amongst the Officers of the Army *Ten Queries*, which partly respected his Speech aforementioned, as well as his Fears of future Events. Which Queries are here recited, they being the First Ground of his deplorable Troubles.

Ten Queries.

1. WHether or no, God will not be more tempted by Illegal changing, and forcing a People to submit to an unknown Government, (in which they can have

have no security) than He would be, if that the *Commonwealth* be engaged to elect a new Representative according to their undeniable Rights?

2. Whether there be not as much Safety by chusing a Representative, as committing the Supream Authority to five, six, or more; when it is visible, that the Army must stand by to poize the affairs of the whole Nation? It is to be granted, that the Army may with more ease and safety change a new-elected Parliament, then dissolve this, in regard they are wound into an Interest.

3. Whether that the faith of any four or five, or more, be a sufficient security to the interest of the Publike?

4. Whether or no that constituting of a Supream Authority by an Army, be not the converting of the Authority into the hands of one person, in as much as all are under a Discipline? Whether this be not next door to Monarchy?

5. Whether or no it doth behove such as must own so high proceedings as the Change of Government, to endeavour to see into the bottom, lest there should be a preparation to Absoluteness and Tyranny?

6. Whether it be fit to trust a number, of men because so and so qualified to appearance; when it hath been frequently known, that many have pretended much to Vertue and Unbyas'dness, but when they have once obtained Government, they have proved wicked Tyrants?

7. What is to be understood by *the People of God*, since there is of the people of God amongst Anabaptists, Independents, Presbyterians, and others? And all of these being Judges of their own causes, judge themselves to be the people of God: Whether then it be not a Faction to side with any one Society in opposition of another?

8. Whether that a new Parliament called to sit six moneths would not be greater security to the Publike interest, then a number of men that either have no limitation as to time, nor otherwise, but what they receive from an Army; by consequence, from one Person? And there is no one person under Heaven, but is swayed by Affection.

9. Whether or no, is the giving of the Supream Power into the hands

hands of five, or six, or more, such a thing as the Goveanment of a *Common Wealth*, when the *Common-Wealth* is excluded from the liberty of making a choice of persons to govern?

10. Whether it be not a cursed Principle, to side with a Party in a Change of Government, to no other end then in having a share of it, or to obtain a share of their favour that shall govern?

These Queries *J.S.* did not publish to any but the Officers, who in the late Change did acknowledge themselves concerned in a great measure to respect the Particulars therein contained: and (under correction) *J.S.* thought it had been their Duty to have minded it upon the delivery of them: but it was not the Will of God they should: (but now it is demonstrable, that it was for good that then they should not; for thereby they have been taught an excellent Lesson, Not to trust to Men, but rather to good Constitutions, and good Lawes;) This is mentioned, to Evince, That *J.S.* did not write or publish them out of a Factious or Turbulent mind, but as his Duty, as a Member of the Army, unto whose Consideration he nnely Referred them: For the which he was committed to the Marshall-General, and was brought before a Court-Martial; they pass this Sentence, That they judged him not fit to bear Office in the Army of *England*, *Ireland*, or *Scotland*; and immediately discharged him. After about the space of six weeks, he was apprehended for writing, printing, and publishing of a Book entituled, *The Grand Politick Informer*, the substance thereof was to this purpose, *viz.* the setting forth the danger of Trusting the Arms of a *Common-Wealth* in the hands of a single Person; the best means to prevent a Tyranny, and to preserve a people free; as also the Asserting the Politicall Rules, for gaining the Arms out of the hands of a Tyrant, by which he aweth a People: also Rules to hold the People to obedience by Justice, without the use of Arms, and the like. For this was *J.S.* by an Order of the Councel of the Little Assembly committed first six weeks to the Custody of *Humphrey Holding* then a Messenger: afterwards on the 12th day of September, 1653, he was committed to the *Gate-house* by vertue of this Warrant.

These are to will and require you to take the body of John Streater, *and him you shall safely keep prisoner in your Prison of the* Gate-house; *he being committed for publishing of Seditious Pamphlets against the State. Of which you are not to fail. And for so doing,*

this shall be your sufficient Warrant. Given at the Counsel of State, sitting at Whitehall, the 12th day of Septemb. 1653.

Ch. Howard, S. Moyer,
Rob. Titchburn *Presid.*
R. Lawrence, J. Hewson.

To the Keeper of the Gatehouse.

In which prison he lay until the beginning of Michaelmas Terme: at which time, by Councel, he moved Judge *Roles* for a *Habeas Corpus*; it being granted, he was brought before the Judges on the 23 of *Novemb.* 1653. being brought to the Bar, and turned over to the Uppet Bench prison, he had 5 Counsellors at Law attending the Cause, upon which there was learned Arguments urged for the deliverance of the Prisoner, who was detained contrary to Law, for that the Warrant did not shew cause, but in generall termes, which was not good in Law; but the enemies of Justice procured an Order of the then letting little Cconvention as followeth.

By vertue of an Order of Parliament, bearing date this present 21 *day of* November, *These are to will and require you, to receive and take into your custody the body of* John Streater, *and him to keep and retain in safe custody, until he shall be delivered by Order of Parliament. Whereof you are not to fail, as you will answer the contrary at your peril. Given under my hand this* 21 *of* Novemb. 1653.

Francis Rous
Speaker.

To the Keeeper of the Gatehouse *Westminster.*

Whose Authority was alleadged to be superior to the Judges: therefore after 7 times appearing at the Bar, he was remanded to the Gate-house: at which time the high Court of Justice was set up to try the prisoner; but it fell, by the late *Protectors* dissolving the said little Assembly.

Now for that the Argument of the prisoner is of so great use, it being delivered by him with an Audible voice at the Bar, it shall be here inserted as it was taken in short hand, and after printed in his Tryal at large.

Mr. John Streater's *Argument to the second part of the Return.*

My Lord,

AS to the second part of the Return, that mentioneth an Order of Parliament; I make this Exception, *That it doth not mention any cause at all of my imprisonment*, And seeing it doth not

UMI - 1994

ſhew cauſe, it is of leſſe ſtrength then the former part of the Return; wherein is cauſe ſhewn, though not a lawful cauſe.

And therefore there may be no more, but only the bare reading of it, to ſhew the inſufficiency of that part of the Return.

But here, if it ſhould be objected, that *it is grounded upon an Order of Parliament, and that the Parliament are not bound to ſhew a cauſe:*

Truly I am of opinion, that the Parl. would not own any one that ſhould ſo argue; it being ſo perfectly repugnant to their Honour, it being condemned in Parl. within our memory, as unjuſt, illegal, unreaſonable, and perfectly contrary to Law: and Law is the only Scepter of Senates, Parliaments, Councels, Empires, Kings, Princes, Governours and Magiſtrates.

The late Parliament in their Declaration conſtituting *England* a Free State, (*March* 1648.) ſay, that *their only Authority is by the Law.*

Again, they ſay, that they are ſenſible of the *excellency and equality of the Law of* England. Alſo, that they ſhall uphold true approved Rules of the Law of *England.* And that the good old Laws and Courts of Juſtice, and the cuſtom of *England*, are the badges of our Freedom, Rights, and Priviledges.

And this Parliament hath declared, that they will be tender of our Rights and Priviledges. The which we enjoy by our Laws.

29 Chap. Magna Charta. *None ſhall be taken or impriſoned but by a legal proceeding according to the old Law of the Land.*

The words *None ſhall be taken*, imply, that none ſhall take or impriſon any contrary to Law.

And it cannot be denied, but the Law intendeth the protection of innocent perſons in freedom: And there being no cauſe ſhewn in the Return, let the command come from whence it will, the Law will warrant a diſcharge.

If it be by an Order of Parl. if the Order ſhew not cauſe of impriſonment, not a cauſe only, but a lawful cauſe.

Parliaments ever made Laws, but the Judges of the Law judged by thoſe Laws.

Who will queſtion, but that the Warrant of a Juſtice of Peace, ſhewing lawful cauſe of impriſonment, is of greater force in Law, then an Order of Parl. ſhewing no cauſe of impriſonment?

But, my Lord, the Parl. is here; it is their Authority that I apply,

ply my self unto: there is nothing can be done her e but by their Authority, that is to say, the Law.

And therefore the Law, and several Acts of Parl. as that of the 17th of the late King, and divers others, say that I shall be discharged.

Shall an Order of Parl. over-rule Laws, Statutes, Customs, Usages, and Reason?

No, my Lord, doubtless the Parliaments intention in ordering that I shall not be delivered but by Order of Parl. is, that I should be delivered by order of Law, as I here expect now, and do not question in the least.

Order of Law may be reckoned as the comliest of all the Parliaments Orders.

Surely none will alleadge that the Parl. intendeth to stop the proceedings of Law that may relieve me, or that this Order of Parl. is superiour to Authority of Parl. that is judicially in this Court.

My Lord, the inferiour must give way to the superiour. The same reason that the Commons in Parl. of the 4th of the late King, judged of the invalidity of the Record in *James Domestris* and *Cæsar's* Case, for that it was not *argued* or *debated*, it was not of weight to be a sufficient Record; the same reason, I say, may be given for an Order of Parl. not to be in force against an Act of Parliament.

An Order of Parl. hath but the same proportion with an Act of Parl. that a Verbal command hath with a command by Record; for that there are not the debates, deliberations, and three times of reading of an Order of Parliament, as is at the establishing an Act of Parliament.

My Lord, besides, any rational man will think that the wisdom and prudence of the Parl. is such, that they will not lay up such a portion for their successors and children, as a Record that shall be a Law or President to after-ages that shall be in effect, *That J. S. was remanded to prison, by the vertue of an Order of Parl. when no cause is shewn in the one part of the Return, nor lawful cause in the other.*

When the Supreme-Authority of Parl. the Law, and Acts of Parl. that contain Law, say expressly, that *if no cause* (or lawful cause) *be shewn in the Return for imprisonment, that then the prisoner shall be set at liberty.*

And *Anno* 20. *Edw.* 3. *chap.* 1. That *if Commands come to the contrary, the Judges ſhall not ceaſe to do even Law and Right.*

Beſides, Sir *Edw. Cook* 4 part Inſtit. chap. 10. *High Court of Parliament*, intimateth, that an Act of *Parl.* is not pleadable in a Court of Record, but by Record, or under the Seal. And M. *Sadler* in his Book intituled, *The Rights of the Kingdom, and Cuſtoms of our Anceſtors*, ſaith as much. Then much leſſe an Order of *Parl.* that is not recorded upon the *Parl.* Rolls it ſelf.

My Lord, it is not to be imagined, neither do I think, that the *Parl.* expecteth that their Order (the inferiour part of their power, the Law, and Acts of *Parl.* that command Law; which is judicially here, as I ſaid before.

My Lord, all Acts of *Parl.* that are unrepealed, are their own: they are not theirs, when they diſown them by repealing; until then, they are with *not otherwiſe* in force, and are Law.

My Lord, A *Parl.* as they command Law, may be called the Wiſdom and Reaſon of the Nation.

Anno 4. *Hen.* 7. *chap.* 12. the Law is called, *The policy of the Nation.* Indeed it is ſo: Juſtice is the beſt policy, as I ſaid before. None can demonſtrate what Juſtice is, without the Law be as the golden Mete-wand, that Sir *Edw. Cook* cautions Parliaments to leave all Cauſes to be meaſured by. 4 *part. Inſtit. fol.* 41.

Upon the queſtion of *H.* 8. to the Judges, *Whether a man might be attainted of High-Treaſon in Parliaments, and not to call him to his Anſwer*; the Judges anſwer was, *That an inferiour Court could not in Law or Juſtice do ſo:* and their opinion was, That *the higher the Court is, the more juſt they ought to be.*

It is not to be ſuppoſed, that a Parliament will act contrary to their wiſdom and policy, which is the Law; or that they would have their inferiour power take place of their ſuperiour power.

Neither will the Parliament plead againſt me with their Power, no ſurely, but by Law, legally; elſe they would have nailed up my priſon-doors with armed men, and never have ſuffered me to come to this Bar. And if that they had not intended that I ſhould have been acquitted, they doubtleſs would have ſhewn cauſe. I know there can be no lawful cauſe of impriſonment ſhewn againſt me.

My

My Lord, *Job's* friends they tell *Job* that because he was guilty in their opinion in the sight of God, of sin, *Job.* 22. 4. *Will he* (meaning God) *reprove thee for fear of thee? will he enter with thee into Judgment?* As much as to say, That God would cut him off from amongst men, because he was sinful, and God powerful. But (saith *Job*, chap. 23. 3.) *O that I knew where I might find him! that I might come to his seat! I would order my cause before him, and fill my mouth with arguments. I would know the words which he would answer me, and understand what he would say unto me. WILL HE PLEAD AGAINST ME WITH HIS GREAT POWER? NO; but he would put strength in me. There the righteous might dispute with him,* &c. And Chap. 38. ver. 32. God saith, *Gird up thy loyns like a man, for I will demand of thee,* &c. And herethat God that declared his power and wisdom visibly in the creation of creatures great in magnitude, as the Leviathan; sweet in influence, as the Pleiades; swiftnesse and courage of the horse in the day of battel; and so of the whole creation: That this great and glorious eternal God, that gave a being to all beings by one onely conception of his mind; he willed them to be, and they were; this God, pleaded with *Job* by and by, in Chap. 42. vers. 4. *Hear, I beseech thee, and I will speak: I will demand of thee, and declare thou unto me.*

My Lord, will the Parliament plead against me with their power. that is to say, what they may do? Surely they will not, but rather strengthen me, by affording me the benefit of Law at this time and place: which is the utmost of what I do expect, and the which they ought to do: by which I shall arrive at my liberty, which is my right by Law, in regard there appeareth no cause in the one part of the Return, nor lawful cause in the other.

My Lord, I have seen the copy of an Order of Parliament bearing date the 21 of *November* present, that saith, *That* John Streater *be and do stand committed to the Prison of the Gate-house Westminster, in order to a tryal: and that Mr. Speaker do issue a Warrant accordingly.*

Without doubt this is the Tryal intended by the Parliament here at this place, To try whether there be cause of imprisonment or not.

The innocent need no other Tryal.

The cause that is already shewn in the first part of the Return, is to be supposed true: And all the cause that was to be shewn, and none other, for that the second part mentioneth no cause at all. And if there had been lawful cause shewn, it is not to be denied but it had bin of force.

UMI - 1994

By all which appeareth, that they intended me the benefit of the Law; which speaketh this language, That *the innocent shall be acquitted.*

My Lord, an Order of Parliament is but as the first thoughts of a man, by which he intendeth this or that.

"An Act of Parliament, and the Law, is like the second, third, and "fourth thonghts of a man, wherein he altereth his first resolutions for-"med by his first thoughts, unto more safe and better resolutions.

And it is not contradictory to him self at all, nor never a whit below him.

My Lord, Here are the Parliaments second, third, and fourth thoughts judicially in this Court, it is Law digested by Councels, debates, time, and practise, into safety and conveniency. The which is for their honour to act by: The benfiet thereof I pray.

My Lord, The Return saith, *I shall not be delivered but by Order of Parliament.* The Order of Parliament saith not such a word: But to be committed *in order to a Tryal*; at which I am.

My Lord, The Return saith, *I shall be committed Prisoner to the Ghte-house by Order of Parliament.*

The Authority of Parliament, the Law judicially in this Court, hath committed me Prisoner to the Marshal of this Court: Shall this be called a contradiction to the Order of Parliament? no, surely it will not stand so in the opinion of this Court.

Neither can it be called a contradiction to the Order of Parliament, if I should be discharged of my Imprisonment; because the Authority of Parliament, the Law, saith, *If there be no cause of Imprisonment I shall be discharged.*

The Law intendeth the defence of three things, in which all else is comprehended. They are Life, Liberty, and Estate.

"Liberty is the chief: not a Liberty to do what one lists, either in "obeying or in commanding; but a just preserving Liberty that shall "be for the good of society.

It was this that our fore Fathers and we have contended for by Arms; and being victorious, will the Parliament deprive us of the benefit of the Law, which is the Ornament of our triumph?

No, my Lord, they have declared to the contrary that they will not.

My

My Lord chief Justice *Hide* is not on this Bench, who once was, and to his shame did deliver in effect this judgement, That *for severall reasons of State, the King may do or act contrary to Law.*

My Lord, I have power to kill this Gentleman next me, but not by Law. So the Parliament hath power to deliver me to prison without shewing cause, but no legal power.

It did better become Mr. Atturney-General *Heath*, that in his pleading for a corrupt interest (in the cause of Sir *John Heningham* and others) at this Bar to alledge, That *the King may act above and contrary to the Law*; then Mr. Atturney-General *Prideaux*, that is to plead in the behalf of a State, that some suppose are laying a foundation of the Kingdom of Christ. If he should, it would be the grandest inconsistency that possible could be, to what they have declared, namely, *Tenderness of our just Rights and priviledges.*

The which Declaration hath invited a National expectation thereof; the which should be a sufficient Law to them to do nothing that might deprive any individual, though the most inferior and inconsiderable part or person of the whole, unto whom these promises were made.

My Lord, Upon the agreement of sharing the Roman Empire, made between *Octavius Antonius*, and *Pompeius Sextus*, it fell out, that they agreed to feast aboard of *Pompeius* his Admiral-Gally lying at an Anchor off, of the head of Mount *Misena*; and when they were all aboard and merry, *Menas* the Pyrate came and whispered *Pompeius* in the ear, *Come*, saith he, *shall I cut Cable, weigh Anchor, and set sail, and not only make thee Lord of* Sicile *and* Sardinia, *but of the whole Empire also?* No, saith noble *Pompeius*, *I have not learned to break faith, although it were to the gaining of an Empire.* When he had invited them to a Banquet, they should not be deprived of what they expected by imprisonment or losse of their shares of the Empire. Such advice, and such practises, do better become Pyrates and Theives, then persons of vertue and honour: the which was in his power to have done.

My Lord, Seeing as I say, that the Parl. did at the first declare that they would be tender of our Rights and Priviledges; and

seeing it is our priviledge to have the benefit of the Law: and seeing the Law saith, That *if there shall be no cause, there shall be no imprisonment*: and in regard there is no cause shown why I should be a prisoner; I do aver, that the *Parliament* cannot have greater dishonour put upon them, then for any one to alleadge that they intended imprisonment to me, if there should no cause in Law appear.

My Lord, If there be any thing else alleadged to be against me, then what appeareth upon the Return and the Record, the Law requireth you not to take notice of it.

And seeing there is no cause, there ought to be no imprisonment: if it should, it would be injustice.

Justice is one of the attributes of God, that by his dispensations he would have administred to men.

The administration of injustice, is a perfect fighting against God.

I believe the *Parliament* would not be found fighters against God.

My Lord, The *Philosopher* saith, *Where just Law ruleth, there God may be said to rule.*

If you judge justly, you have no cause to fear. I expect it, as you will answer the contrary at the dreadful day of judgment.

The Reader is to take notice, that the Prisoner acknowledged their power as a Parliament, else his Plea had not bin allowed.

Notwithstanding this which the prisoner urged, and his Councel, he was again committed prisoner to the Gate-house: after which, as was said before, the Little Assembly being dissolved, the prisoner brought his *Habeas Corpus* again in *Hillary* Term; at which time he appeared at the Bar eleven times himself, & Councel pleading, too large here to be recited; only the passages of the last day as followeth:

Mr. Attorney-General *Prideaux* began thus:

My Lord, This Gentleman the prisoner, stands committed by Order of Parliament; And whereas he himself & the Counsel assigned for him have alleaged, That the Order of Parliament is void, by reason (as they say) the Parliament is dissolved:

My Lord, Parliaments cannot be dissolved: the Parliament or the same power is in being now. And Parliaments were to be once a year, as by the Statute of the 4 of *Ed.* 3. at which time he may be relieved. In the North parts, the Assizes can be held but once a year.

But grant that the meaning of the Parliament was to deliver

him themſelves, and not that they meant the Parliament to be on the 3 of *September* 1654. yet for that they ordered that he ſhould not be delivered but by Order of Parliament, I conceive he can be delivered no otherwiſe then by an Order of Parliament, nor by any other but a Parliament.

Poſſibly when that the Parliament conſiſted of King, Lords, and Commons, an Order of one or two Houſes, without a threefold conſent, had not been binding: but now the power that was in the Lords and King, are joyned in the Commons, and therefore is of greater force.

And it is not material whether they ſhew cauſe, or not: there may be good cauſe: And it cannot be preſumed that the Parliament would commit a man, and have no cauſe at all for ſo doing. But without queſtion, a Parliament may commit men, and ſhew no cauſe.

But ſuppoſe his Commitment be in order to a Tryal in *Parliament*; will this Court take upon them to judge in the cauſe? or can they by *Habeas Corpus* bring the body of the priſoner and the cauſe before them, out of *Parliament*?

The Lord of *Strafford* was tryed in *Parliament*: I believe this Court would not in ſuch a Caſe remove the Tryal before them, nor indeed can they. Upon the Return it appeareth, he is committed by Order of *Parliament*, and to be delivered by Order of *Parliament*: if they had intended he ſhould have been delivered otherwiſe, they would have either ſaid nothing, or have Ordered his delivery according to Law.

When Kings die, it is true, that Commiſſions do ceaſe: but when *Parliaments* do diſſolve, their Acts do not ceaſe. Beſides, a *Parliament* is the Supreme Court, and they do conſtitute other Courts; and therefore it is not for other Courts to queſtion the proceedings of a *Parliament*.

It will not be expected of me to ſhew that the *Parliament* had ſufficient matter or cauſe of impriſonment.

To this the Judges anſwered, No, no: if he had any thing more to ſpeak to the Order of *Parliament*, that was it that was to be ſpoken unto.

Mr. Attor. My Lord, this Gentleman might make his application for his liberty to the preſent Authority elſewhere; and I doubt not but it would be granted him; for now *Parliamentary* authority is in one perſon.

M

My Lord, I doubt not but the Court will be cautious in medling in this case, but it will rather remand him to prison; first, for that it may be that the proceedings against him are not yet ripe: it may be yet under examination. Secondly, for that this is the first president of the like nature, and it being of so great and high concernment.

After a little space of time, Mr. *Attorney* cometh into the Court.

Lord chief Justice *Rolle*. Mr. *Attorney*, here is Mr. *Streater* again by Rule of Court; he hath been a long time in prison, and I see here is nothing come against him that is material.

Mr. Serj. *Twisden, of counsel for the prisoner*. My Lord, we desire that he may be bayled.

Lord chief Justice *Rolle*. What have you any thing more to say, Mr. *Attorney*?

Mr. *Attor*. My Lord, I thought I should have heard of him, but I did not: the Court must do justice. He is committed by order of *Parliament*.

My Lord, if you will undo an Order of *Parliament*, he is to be delivered: but I hope the Court will not.

Mr. *Windham*. The Order of *Parliament* is undone by the *Parliaments* being dissolved.

Mr. *Attor*. Commissioners of Sewers are granted by *Parliament*, and they do continue after the *Parliament* is dissolved. Jayl-delivery is but once a year in the North parts; and I suppose the next *Parliament* will be sitting, before he hath been a year in prison: at which time he may be tryed or delivered. And although this be called an Order of *Parliament*, yet it was acted by *Parliament*.

Lord chief Iustice *Rolle*. But all that the *Parliament* acteth, are not Acts of Parliament.

The first part of the Return is too general, it mentioneth not what Books, nor whose Books, or where they were, or when published.

The second part of the Return is grounded upon an Order of Parliament: we are to take notice when a Parliament sitteth, and also when it is dissolved; or when it endeth, or determineth. Discontinuance is a determination.

A Writ of Error many times is made Returnable in the next Parliament; but that lyeth after Tryal at Law. The word Order is a proper *phrase* to that which is not an Act. An Order of parliament is not binding in Succession: How shall the next Parliament take

notice of a former Parliaments Order? Committees that are appointed by Order of Parliament do cease upon the dissolving of the Parliament. I have been of the Parliament; I ever found Parliaments of the same Opinion. We must look to the first Imprisonment, and no farther: if you had Returned other Cause, we should have taken notice of it. We do not reverse the Order of Parliament; that is reveried by the Parliaments being dissolved; and it being dissolved, there is no visible way how the prisoner shall be relieved: though there may be a probable way.

Iudg *Ask*. I am of the same Opinion, and that it could not be, that the Order of Parliament, by saying he should not be delivered but by Order of Parliament, but that they meant by the same Parliament, and not by a Successive Parliament. If it should be taken to be by Order of the next Parliament, where shall be the Liberty of the Subjects? or how they shall be relieved in long interval of parliaments, as in the Reign of K. *Iames*, and the Reign of King *Charls*, we had not parliaments in many years together: & although it be so that the parliament by the Statute of the 4. of *Ed.* 3. should be once a year, or oftner, if need be: besides, here is no Succession of parliament, but a Dissolution. Another parliament must be another Session, and therefore an Order cannot be in force until another Session. If they had made an Act of parliament, or passed a judgment of parliament, it had been another Case.

Upon the consideration of the whole matter, the Iudges opinion was, that the prisoner ought to be discharged, and this Rule entred.

Saturday next after 8 days of the *Purif.* 1653.

The Lord Protector against *Io. Streater*, Gent. *The Defendant was brought into Court by the Marshal upon* Habeas Corpus, *and by the Court discharged of his imprisonment by the motion of Mr.* Serjeant Twisden.

By the Court. As may be seen, *Styles* Reports, *fol.* 415. Lord cheif Justice *Rolle*. Sir, you will do well to carry your self conformably to the present Power, and walk inoffensively.

Mr. *Streater*. My Lord, I ever have been, and I hope shall be, a Subject to Government, so as the Law requireth me to be: It is not my duty to be otherwise subject.

In Easter Term following, the Prisoner was discharged of his Bail. About six weeks after, the Late Protector sent six files of Musqueteers, they incompassed his house near High-gate; but he having notice of it by one of the *Protector's* Councel's Letter to him, did escape and hid himself for 4 Months in private, in which time he sent a Letter to the *Protector*, wherein he desired to know, what was the reason of his so violent prosecuting of him: no answer could be obtained. In the Interim of which time, a Minister of *London*, a friend to J. S. and one intimate with the Protector, repayreth to him, to mediate for J. S. who knew nothing at all of his proceedings herein: He desired the Protector to desist from prosecuting of him; Told him that he was but a dissatisfied friend, & that he was confident that nothing was in his designes but publick good, and that such dealings would but make him stand at a greater distance: To which the Protector answered, that he would have him dead or alive, unless he would come & submit himself to him, or else that he would go in the West-Indies Expedition; the which if he would, he should be well provided for. J. S. his friend acquainted him with what passed, and pressed him to comply in both of the aforementioned particulars; but could not prevail, for that *J. S.* in the first place was resolved not to trust to his Mercy; nor, in the second place to go into his Sink, *Jamaica*; where he would have been glad to send all Assertors of the *Good Old Cause*, that he might never have had his Conscience grated with the reading of such pieces as his piece of the Observations upon *Aristotle's* Politicks, for which *J. S.* was this time prosecuted vigorously: In which discourse, the Excellency of a free State was maintained, and the Inconveniences of a Tyranny, or Single Person, were fully demonstrated. At the end of the aforementioned 4 Months private and voluntary Imprisonment, for the security of his Person, he bethought of writing to General *Disborow*; who with much Civility and Courtesy answered, his Letters prevailed so with the Protector, that if J. *S.* would promise not to write or publish any more books, to the prejudice of the then Government, he should live quietly and undisturbed: General *Disborow* sent to him notice hereof, withall desiring that he would come to speak with him; promising by the Messenger he should come and go safely. Accordingly at *Kensington* J. *S.* waited upon him, where he promised not to write any more against that power; (his private

Reason

Reason was, because he saw all people sit quiet under the Power, not resisting, and therefore it was in vain to continue writing, or further opposing the Corruptions of those Times,) and General *Disborow* promised he should be prosecuted no more: But so it was, that one moneth after in *November* 1654, again the second time the Protector sent a Squadron of Horse to his House near *High-gate*, by them he was taken out of his bed at one of the clock in the morning, and brought to the *White-Hart* at *Chering-Crosse*: At day break, *J. S.* sent to Gen. *Disborow*, and acquainted him, That contrary to his promise, he was taken prisoner again. Immediately the General went to the Protector, to know the reason thereof, being confident that *J. S.* would not break his word. The Protector told him, That he had been discoursing with some Parliament-men of matters of dangerous Consequence at such a time and place. Worthy Gen. *Disborow* did acquaint Mr. *Streater* of all that he could learn touching that matter; and sent a command to the Guard that was over him, to bring him to *Suffolk*-house, where the General discoursed the whole matter to him; and withall told him, That Mr. *Thurlow* the Secretary was the Instrument of his Trouble. To which *J. S.* replyed, That he did remember the Discourse every word, and repeated the substance thereof to him; withall told him, He would write it down, and leave it to any to judge, whether it would amount to the desert of a Restraint. General *Disborow* approved of so doing; and accordingly he did it, being to this purpose, *viz.* That being asked, Whether one might lawfully sign the *Recognition* before he Entred the House, and afterward oppose the same thing? *J. S.* Returned answer, One might: And gave first this for a Reason, That it did contain these words, *To be true to the lawfull power of the Protector*: of the which he knew not any that he had; and therefore the Obligation was void, because that unto which he engaged had no being. He further Illustrated it, both by the Opinion of divers Casuists, and Civilians.

A Second Reason was, That if he could dispence with it in point of Conscience, it would consist well with Prudence, for good minded men Not to scruple the signing thereof; for that thereby they were kept or sifted out, from whom good was to be expected; and though they could not do the Good they ought, yet they might prevent much Evill, and be in a readiness to attend the opportunity that providence might offer, to accomplish the Good they ought to do.

UMI - 1994

A Third Reason was, from the Example of our fore-fathers, who did swear to be true to the King, and subject to the known Lawes; yet so soon as they came into the House, they Treated of the Alteration of several Lawes: the which they could not do, if they took the Oath in any other capacity then as private men: For an Oath is not lawful to be taken, that should bind private persons in any thing that is contrary to the Judgment and Opinion of a Councel of Legislators.

Another Question was ask't *J. S.* What were the signs of a weak State? He answered, That they were purblind in their Counsels, that they could not see, one year to an end, what the Effects of their Resolutions would be; which begot uncertainty, and Changes in Government. The Remainder of the dangerous discourse before mentioned, was about what Opinions in Religion were fittest to be promoted, and will best suit with Monarchies or Tyrannies? and what with Aristocracies? and what with Oligarchies? and what with Democracies? Together with the Necessitie of promoting and encouraging Religion, if it were for no other End, (the which God forbid) than to make people easie to be governed: If it be taken away, they cannot be Governed. Therefore the Heathens Institute Religion, and give Divine Honour to Stocks and Stones. This being the substance of what *J. S.* writ at large, and sent it to General *Disborow*, who immediately procured his Inlargement, and stood between him and his Enemies, prevented all future Trouble coming upon him, with much Care and Readiness. These troubles continuing two Years after the day of the Interruption of this Session of Parliament, to his Damage and Expence many Hundred pounds.

FINIS.

UMI - 1994